

SEP 05 2013

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

LEVI SPRINGER,

Plaintiff,

v.

SGT. ADAMS, *et al.*,

Defendants.

Civil Action No. 7:12CV00336

**ORDER**

By: Samuel G. Wilson  
United States District Judge

This case was referred pursuant to 28 U.S.C. § 636(b)(1)(B) to the Honorable Pamela M. Sargent, United States Magistrate Judge. The Magistrate Judge has filed a report recommending that the court:

- 1) grant defendants Adams', Bentley's, Brinkley's, Gilbert's, and Mullins' motions to dismiss on Claims One and Two (ECF Nos. 25 & 72);
- 2) deny defendants Gilbert's, Collins', Mullins', and Brinkley's motions to dismiss on Claim Three (ECF Nos. 25 & 72);
- 3) grant defendant Dr. Miller's motions for summary judgment on Claims Two and Three (ECF No. 86);
- 4) grant defendant Cleek's motion for summary judgment on Claim Four (ECF No. 86); and
- 5) deny defendants Gilbert's and Collins' motion for summary judgment on Claim Four (ECF No. 64), regarding the limited issue of whether the decision to let him remain in five-point restraints violated the Eighth Amendment.

Objections to the report and recommendation have not been filed and the court, upon review of pertinent portions of the record, is of the opinion that the report should be adopted. It is accordingly, **ORDERED** and **ADJUDGED** that:

- 1) defendants' motions to dismiss Claim One are **GRANTED**;

- 2) defendants Brinkley's, Adams', Collins', Gilbert's, and Mullins' motions to dismiss Claim Two are **GRANTED**;
- 3) defendant Miller's motion for summary judgment on Claim Two is **GRANTED**;
- 4) defendants Gilbert's, Collins', Mullins', and Brinkley's motions to dismiss on Claim Three are **DENIED**;
- 5) defendant Dr. Miller's motion for summary judgment on Claim Three is **GRANTED**;
- 6) defendant Cleek's motion for summary judgment on Springer's claim regarding the initial application of five-point restraints contained in Claim Four is **GRANTED**;
- 7) defendant Collins' motion for summary judgment on Springer's claim that Collins dripped pepper spray on him contained in Claim Four is **GRANTED**;
- 8) defendants Gilbert's and Collins' motions for summary judgment on Springer's claim regarding the continued application of five-point restraints contained in Claim Four is **DENIED**; and
- 9) Springer's motion for injunctive relief is **DENIED**.

ENTER: This September 5<sup>th</sup>, 2013.

  
UNITED STATES DISTRICT JUDGE